

CHIROPRACTIC PHYSICIAN PRACTICE ACT

Part 1 - General Provisions

58-73-101. Title.

This part is known as the "Chiropractic Physician Practice Act."

58-73-102. Definitions.

- (1) "Adjustment of the articulation of the spinal column" means performance by a chiropractic physician by the use of passive movements directed toward the goal of restoring joints to their proper physiological relationship of motion and related function, releasing adhesions, or stimulating joint receptors using one or more of the following techniques:
 - (a) impulse adjusting or the use of sudden, high velocity, short amplitude thrust of a nature that the patient cannot prevent the motion, commencing where the motion encounters the elastic barrier of resistance and ends at the limit of anatomical integrity;
 - (b) instrument adjusting, utilizing instruments specifically designed to deliver sudden, high velocity, short amplitude thrust;
 - (c) light force adjusting utilizing sustained joint traction or applied directional pressure, or both, which may be combined with passive motion to restore joint mobility; and
 - (d) long distance lever adjusting utilizing forces delivered at some distance from the dysfunctional site and aimed at transmission through connected structures to accomplish joint mobility.
- (2) "Board" means the Chiropractic Physician Licensing Board created in Section 58-73-201.
- (3) "Chiropractic assistant" means a person who performs activities related to the practice of chiropractic under the supervision of a licensed chiropractic physician in accordance with division rule established in collaboration with the board.
- (4) "Chiropractic physician" means a person who has been licensed under this chapter to practice chiropractic.
- (5) "Diagnosis of the articulation of the spinal column" means to examine the articulations of the spinal column of another human to determine the source, nature, kind, or extent of a disease, vertebral subluxation, or other physical condition, and to make a determination of the source, nature, kind, or extent of a disease or other physical condition.
- (6) "Elastic barrier" means the point at which the patient cannot move a joint by his own means and through which movement is obtained or caused by a practitioner's skillful treatment using the practitioner's hands in a manipulation of a joint by thrust of sudden, high velocity, short amplitude so the patient cannot prevent the motion.
- (7) "Incisive surgery" means any procedure having the power or quality of cutting of a patient for the purpose of treating disease, injury, or deformity, and includes the use of laser.
- (8)
 - (a) "Manipulate the articulation of the spinal column" means use by a practitioner of a skillful treatment using the practitioner's hands in a manipulation of a joint by thrust of sudden, high velocity, short amplitude so the patient cannot prevent the motion. Movement of the joint is by force beyond its active limit of motion.
 - (b) This manipulation commences where mobilization ends and specifically begins when the elastic barrier of resistance is encountered and ends at the limit of anatomical integrity.
 - (c) Manipulation as described in this definition is directed to the goal of

restoring joints to their proper physiological relationship of motion and related function, releasing adhesions, or stimulating joint receptors.

- (9) "Practice of chiropractic" means a practice of a branch of the healing arts:
 - (a) the purpose of which is to restore or maintain human health, in which patient care or first aid, hygienic, nutritional, or rehabilitative procedures are administered;
 - (b) which places emphasis upon specific vertebral adjustment, manipulation, and treatment of the articulation and adjacent tissues of the spinal column, musculoskeletal structure of the body, and nervous system;
 - (c) that involves examining, diagnosing, treating, correcting, or prescribing treatment for any human disease ailment, injury, infirmity, deformity, pain, or other condition, or the attempt to do so, in accordance with Section 58-73-601;
 - (d) that involves diagnosing, prescribing treatment, or making a determination of treatment necessity for another person's condition by means of:
 - (i) a physical examination of the person; or
 - (ii) a determination based upon or derived from information supplied directly or indirectly by a third person; and
 - (e) the practice described in this Subsection (9) on an animal to the extent permitted by:
 - (i) Subsection 58-28-8(12);
 - (ii) the provisions of this chapter; and
 - (iii) division rule.
- (10) "Therapeutically position the articulation of the spinal column" means to adjust or manipulate the articulation of the spinal column.

Part 2 - Board

58-73-201. Board.

- (1) There is created the Chiropractic Physician Licensing Board consisting of four chiropractic physicians and one member from the general public.
- (2) The board shall be appointed and serve in accordance with Section 58-1-201.
- (3) The duties and responsibilities of the board are in accordance with Sections 58-1-202 and 58-1-203. In addition, the board shall designate one of its members on a permanent or rotating basis to:
 - (a) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and
 - (b) advise the division in its investigation of these complaints.
- (4) A board member who has, under Subsection (3), reviewed a complaint or advised in its investigation is disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

Part 3 - Licensure

58-73-301. Licensure required - License classifications.

- (1) A license is required to engage in the practice of chiropractic, except as specifically provided in Section 58-73-304.
- (2) The division shall issue to a person who qualifies under this chapter a license in the classification of chiropractic physician.

58-73-302. Qualifications for licensure.

- (1) Each applicant for licensure as a chiropractic physician, other than those applying for a license based on licensure as a chiropractor or chiropractic physician in another jurisdiction, shall:
 - (a) submit an application in a form prescribed by the division;
 - (b) pay a fee determined by the department under Section 63-38-3.2;
 - (c) be of good moral character;
 - (d) demonstrate satisfactory completion of at least two years of general study in a college or university;
 - (e) demonstrate having earned a degree of doctor of chiropractic from a chiropractic college or university that at the time the degree was conferred was accredited by the Council on Chiropractic Education, Inc., or an equivalent chiropractic accrediting body recognized by the United States Department of Education and by the division rule made in collaboration with the board;
 - (f) demonstrate successful completion of:
 - (i) the National Chiropractic Boards:
 - (A) Parts I and II;
 - (B) Written Clinical Competency Examination; and
 - (C) Physical Therapy;
 - (ii) the Utah Chiropractic Law and Rules Examination; and
 - (iii) a practical examination approved by the division in collaboration with the board; and
 - (g) meet with the board, if requested, for the purpose of reviewing the applicant's qualifications for licensure.
- (2) Each applicant for licensure as a chiropractic physician based on licensure as a chiropractor or chiropractic physician in another jurisdiction shall:
 - (a) submit an application in the form prescribed by the division;
 - (b) pay a fee determined by the department under Section 63-38-3.2;
 - (c) be of good moral character;
 - (d) demonstrate having obtained licensure as a chiropractor or chiropractic physician in another state under education requirements which were equivalent to the education requirements in this state to obtain a chiropractor or chiropractic physician license at the time the applicant obtained the license in the other state;
 - (e) demonstrate successful completion of:
 - (i) the Utah Chiropractic Law and Rules Examination; and
 - (ii) the Special Purposes Examination for Chiropractic (SPEC) of the National Board of Chiropractic Examiners;
 - (f) have been actively engaged in the practice of chiropractic for not less than two years immediately preceding application for licensure in this state; and
 - (g) meet with the board, if requested, for the purpose of reviewing the applicant's qualifications for licensure.

58-73-303. Terms of license - Expiration - Renewal.

- (1)
 - (a) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by rule.
 - (b) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.
- (2) At the time of renewal, the licensee shall show satisfactory evidence of completion of continuing education as defined by rule.
- (3) Each license expires on the expiration date shown on the license unless the licensee renews it in accordance with Section 58-1-308.

58-73-304. Exemptions from licensure.

- (1) Except as provided in Subsection (2), the exemptions from licensure set forth in Section 58-1-307 apply.
- (2) With regard to Subsections 58-1-307(1)(b) and (c), the only exemption from licensure permitted is a preceptorship which may permit a student to engage in acts or practices included within the definition of the practice of chiropractic, while:
 - (a) performing the duties and activities which are part of the approved program of education and training of a college or university accredited by the Council on Chiropractic Education; and
 - (b) under a form of supervision approved by the division.
- (3) In addition to the exemptions provided in Subsections (1) and (2), a chiropractic assistant while working under the supervision of a licensed chiropractic physician is exempt from licensure under this chapter to the extent the chiropractic assistant is engaged in tasks appropriately delegated by the supervisor in accordance with the standards and ethics of the practice of chiropractic and division rule established in collaboration with the board.

Part 4 - License Denial and Discipline

58-73-401. Grounds for denial of license - Disciplinary proceedings - Limitation on division actions.

- (1) Grounds for the following are in accordance with Section 58-1-401:
 - (a) refusing to issue a license to an applicant;
 - (b) refusing to renew the license of a licensee;
 - (c) revoking, suspending, restricting, or placing on probation the license of a licensee;
 - (d) issuing a public or private reprimand to a licensee; and
 - (e) issuing a cease and desist order.
- (2) If a court of competent jurisdiction determines a chiropractic physician is incompetent, mentally incompetent, incapable or mentally ill, the director shall suspend the license of that chiropractic physician, even if an appeal is pending.
- (3)
 - (a) If it appears to the board there is reasonable cause to believe a chiropractic physician who has not been judicially determined to be incompetent, mentally incompetent, incapable, or mentally ill is unable to practice chiropractic with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other substance, or as a result of any mental or physical condition, a petition shall be served upon that chiropractic physician for a hearing on the sole issue of the capacity of the chiropractic physician to conduct properly the practice of the chiropractic physician.
 - (b) Every chiropractic physician licensed by this state is considered to have:
 - (i) agreed to submit to a mental or physical examination upon receipt of a written direction given by the division with the approval of the board; and
 - (ii) waived all objections to the admissibility of the examining chiropractic physician's or other practitioner's testimony or examination reports on the ground they constitute a privileged communication.
 - (c) Failure of a chiropractic physician to submit to an examination under Subsection (b) when directed by the division, unless the failure was due to circumstances beyond his control, constitutes grounds for immediate suspension of the chiropractic physician's license and an order of suspension of the license may be entered by the division without the

- taking of testimony or the presentation of evidence.
- (d) A chiropractic physician whose license is suspended under this section shall, at reasonable intervals, be afforded the opportunity to demonstrate he can resume the competent practice of chiropractic with reasonable skill and safety to patients.
 - (e) Neither the proceedings of the board nor the action taken by it under this section may be used against a chiropractic physician in any other proceedings.
- (4) The terms of revocations, suspension, or probation under this chapter may include:
- (a) revoking the license to practice either permanently or with a stated date before which the individual may not apply for licensure;
 - (b) suspending, limiting, or restricting the license to practice chiropractic for up to five years, including limiting the practice of the person to, or excluding from the person's practice, one or more specific branches of medicine, including any limitation on practice within the specified branches;
 - (c) requiring the license holder to submit to care, counseling, or treatment by physicians approved by or designated by the board, as a condition for licensure;
 - (d) requiring the license holder to participate in a program of education prescribed by the board;
 - (e) requiring the license holder to practice under the direction of a physician designated by the board for a specified period of time; or
 - (f) other appropriate terms and conditions determined by the division in collaboration with the board to be necessary to protect the public health, safety, or welfare.

Part 5 - Unlawful and Unprofessional Conduct

58-73-501. Unprofessional conduct.

Unprofessional conduct is as defined in Section 58-1-501, as defined by division rule, and also includes:

- (1) engaging in practice as a chiropractic physician after electing to place his license on inactive status, without having established with the board that he has initiated or completed continuing education necessary to reinstate active status of his license;
- (2) failing to complete required continuing professional education;
- (3) violating any of the scope of practice standards set forth in Section 58-73-601;
- (4) failing to maintain patient records in sufficient detail to clearly substantiate a diagnosis, all treatment rendered to the patient in accordance with the recognized standard of chiropractic care, and fees charged for professional services;
- (5) refusing to divulge to the division on demand the means, methods, device, or instrumentality used in the treatment of a disease, injury, ailment, or infirmity, unless that information is protected by the physician-patient privilege of Utah and the patient has not waived that privilege;
- (6) refusing the division or its employees access to his office, instruments, laboratory equipment, appliances, or supplies at reasonable times for purposes of inspection;
- (7) fraudulently representing that curable disease, sickness, or injury can be cured in a stated time, or knowingly making any false statement in connection with the practice of chiropractic;
- (8) offering, undertaking, or agreeing to cure or treat a disease, injury, ailment, or infirmity by a secret means, method, device, or instrumentality;

- (9) willfully and intentionally making any false statement or entry in any chiropractic office records or other chiropractic records or reports;
- (10) knowingly engaging in billing practices which are abusive and represent charges which are fraudulent or grossly excessive for services rendered;
- (11) performing, procuring, or agreeing to procure or perform, or advising, aiding in or abetting, or offering or attempting to procure or aid or abet in the procuring of a criminal abortion;
- (12) willfully betraying or disclosing a professional confidence or violation of a privileged communication, except:
 - (a) as required by law; or
 - (b) to assist the division by fully and freely exchanging information concerning applicants or licensees with the licensing or disciplinary boards of other states or foreign countries, the Utah chiropractic associations, their component societies, or chiropractic societies of other states, countries, districts, territories, or foreign countries;
- (13) directly or indirectly giving or receiving any fee, commission, rebate, or other compensation for professional services not actually rendered or supervised, but this subsection does not preclude the legal relationships within lawful professional partnerships, corporations, or associations; and
- (14) knowingly failing to transfer a copy of pertinent and necessary medical records or a summary of them to another physician when requested to do so by the subject patient or his designated representative.

58-73-502. Unlawful conduct - Penalties.

- (1) "Unlawful conduct" includes, in addition to the definition in Section 58-1-501:
 - (a) buying, selling, or fraudulently obtaining any chiropractic diploma, license, certificate, or registration;
 - (b) aiding or abetting the buying, selling, or fraudulently obtaining of any chiropractic diploma, license, certificate, or registration; and
 - (c) substantially interfering with a licensee's lawful and competent practice of chiropractic in accordance with this chapter.
- (2) Any person who violates any provision of Subsection (1) is guilty of a third degree felony.

Part 6 - Scope of Practice - Division Regulation

58-73-601. Scope of practice for a chiropractic physician.

- (1) A chiropractic physician licensed under this chapter may engage in the practice of chiropractic as defined in Section 58-73-102 in accordance with the following standards.
- (2) A chiropractic physician may:
 - (a) examine, diagnose, and treat only within the scope of chiropractic as described in this Subsection (2);
 - (b) use x-ray for diagnostic purposes only;
 - (c) administer:
 - (i) physical agents, including light, heat, cold, water, air, sound, compression, electricity, and electromagnetic radiation except gamma radiation; and
 - (ii) physical activities and devices, including:
 - (A) exercise with and without devices;
 - (B) joint mobilization;
 - (C) mechanical stimulation;
 - (D) postural drainage;
 - (E) traction;

- (F) positioning;
 - (G) wound debridement, cleansing, and dressing changes;
 - (H) splinting;
 - (I) training in locomotion and other functional activities with and without assistance devices; and
 - (J) correction of posture, body mechanics, and gait;
- (d) administer the following topically applied medicinal agents, including steroids, anesthetics, coolants, and analgesics for wound care and for musculoskeletal treatment, including their use by iontophoresis or phonophoresis;
- (e) treat pain incident to major or minor surgery, cancer, obstetrics, or x-ray therapy;
- (f) utilize immobilizing appliances, cases, and supports for support purposes, but may not set displaced bone fractures;
- (g) inform the patient of possible side effects of medication and recommend referral to the prescribing practitioner;
- (h) provide instruction in the use of physical measures, activities, and devices for preventive and therapeutic purposes;
- (i) provide consulting, educational, and other advisory services for the purposes of reducing the incidence and severity of physical disability, movement dysfunctions, bodily malfunction, and pain;
- (j) treat a human being to assess, prevent, correct, alleviate, and limit physical disability, movement dysfunction, bodily malfunction, and pain resulting from disorders, congenital and aging conditions, injury, and disease; and
- (k) administer, interpret, and evaluate tests.
- (3) A chiropractic physician may not:
 - (a) perform incisive surgery;
 - (b) administer drugs or medicines for which an authorized prescription is required by law except as provided in Subsection (2)(d);
 - (c) treat cancer;
 - (d) practice obstetrics;
 - (e) prescribe or administer x-ray therapy; or
 - (f) set displaced fractures.
- (4) A chiropractic physician shall assume responsibility for his examinations, diagnoses, and treatment.
- (5) Nothing in this section authorizes a chiropractic physician to prescribe, possess for dispensing, dispense, purchase without a prescription written by a licensed and authorized practitioner, or administer, except under Subsection (2)(d), a drug requiring a prescription to dispense, under Title 58, Chapter 37, Utah Controlled Substances Act, or Title 58, Chapter 17a, Pharmacy Practice Act.
- (6) Only primary health care providers licensed under this title as osteopathic physicians, naturopaths, physicians and surgeons, and chiropractic physicians, may diagnose, adjust, manipulate, or therapeutically position the articulation of the spinal column to the extent permitted by their scopes of practice.

58-73-602. Division regulation - Quality of care - Complaints.

- (1) To enable the division and the board to license applicants for licensure and regulate individuals licensed under this chapter, the division and board shall endeavor to obtain information concerning the quality and adequacy of chiropractic care rendered to patients.
- (2) Chiropractic physicians licensed under this chapter shall furnish information requested by the division on recommendation of the board.
- (3) (a) The board shall designate committees composed of chiropractic physicians licensed by this state to advise the division and the board regarding the quality and adequacy of chiropractic care rendered to patients by

chiropractic physicians licensed under this chapter and to recommend the division initiate investigations on chiropractic physicians who may be acting in violation of this chapter.

- (b) If it appears to the committee there is reasonable cause to believe that chiropractic physician licensed under this chapter has failed to provide adequate chiropractic care to patients, a complaint shall be made to the division outlining the statement of reasonable cause.

Part 7 - Liability Immunity

58-73-701. Persons immune from liability.

- (1) Employees of the division, members of the board or its committees, and professional consultants serving the division or the board, are not subject to civil damages, when acting under the authority of this chapter, for any act or omission performed in good faith within the scope of their functions as an employee of the division or member of the board.
- (2) Employees, board members, committee members, and professional consultants are indemnified by the state. The state has full responsibility for providing legal and financial protection for employees, board members, committee members, and consultants to the board or division.
- (3) Nothing in this section may be construed to adversely limit any provision of Title 63, Chapter 30, Utah Governmental Immunity Act.

CHIROPRACTIC PHYSICIAN PRACTICE ACT

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